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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,963	02/13/2004	Mitchell Adams Cogert		6046

7590

09/21/2004

Mitchell Cogert
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Tiburon, CA 94920

EXAMINER

NGUYEN, KIM T

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,963

Applicant(s)

COGERT, MITCHELL ADAMS

Examiner

Kim Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities:
 - a) In claim 1, limitation (e), the claimed limitation “the option” should be corrected to “an option”.
 - b) In claim 1, limitation (l), the claimed limitation “the winning” should be corrected to “a winning”.
 - c) In claim 1, limitation (l), the claimed limitation “with steps (a)” should be corrected to “with step (a)”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a) In claim 1, limitation (c), limitation (e), , limitation (f), limitation (h), limitation (i), the claimed limitation “the players remaining in the hand” is ambiguous. What is the meaning of “the players remaining in the hand”? It is not clear if “the players remaining in the hand” refers

to “the one or more players who wager all his money” in line 4, or “all the players who receive the two face down cards in line 2. Further, “the players” and “the hand” lack of antecedent basis.

b) In claim 1, limitation (d), the claimed limitation “any player” is ambiguous. It is not clear if “any player” refers to “any player among the one or more players” in line 4, or “any player among the players who receive the two face down cards” in line 2.

c) In claim 1, limitation (e), limitation (h), the claimed limitation “all cards” is ambiguous. It is not clear if the “all cards” implies “all the two face down cards of each of the one or more players”, or “all the two face down cards of all the players who receive the two face down cards”.

d) In claim 1, limitation (l), the claimed limitation “all players remaining in the hand” is ambiguous. What is the meaning of “all players remaining in the hand”? It is not clear if “all players remaining in the hand” refers to “all the one or more players who wager all his money” in line 4, or “all the players who receive the two face down cards” in line 2.

Allowable Subject Matter

4. The following is a statement of reasons for the indication of allowable subject matter:

Prior arts of record do not disclose a method for playing poker card game which comprises the steps performed in detailed and in order as substantially recited by claim 1. Specifically, each player wagers after having been dealt two cards face down, when no more betting is possible, the two face down cards of each player are exposed and the players have an

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option of folding his hand and getting back 40% of his wager if he folds after the first three community cards are revealed, or 20% of his wager if he folds after the fourth community card is revealed, when the fifth community card is revealed, the two face down cards of each player are exposed to determine which player has a winning poker hand, the poker hand comprises the two cards dealt to the player plus the five community cards.

Cited References

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hesse (US 6,332,614) and *Kal* (US 6,575,467) disclose method for playing poker card games.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (703) 308-7915. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

kn

Date: September 18, 2004


KIM NGUYEN
PRIMARY EXAMINER